

Edward Bienz

45

1
2 communications with Anthony and conveying
3 personal stories to Anthony, did you ever
4 communicate to Anthony personal stories that
5 involved you and drinking?

6 A Yes.

7 Q How many stories might you have
8 conveyed that involved you going out and
9 drinking alcohol?

10 A I don't know.

11 Q Approximately?

12 A You know, I'd have to guess. I
13 don't want to guess.

14 Q I don't want you to guess,
15 either.

16 So you believe that you've
17 communicated some stories, during the course
18 of that eight months, regarding you and
19 drinking alcohol, but you can't tell us how
20 many you may have discussed with him?

21 A Yes.

22 Q Getting together with the boys,
23 or going out with your wife, whatever the
24 case may be?

25 A Yes.

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Edward Bienz

46

Q During the course of those --
with respect to those communications, did
you ever convey to Anthony that you got
drunk, during one of those stories?

A No.

Q Did you ever, from the time you
met Anthony DiLeonardo, up to February 26th,
2011, ever communicate a story to him
involving the fact that you became
intoxicated as a result of drinking?

A No.

Q So Anthony DiLeonardo, then,
would have no personal knowledge from you
directly that you've ever gotten intoxicated
as a result of consuming alcohol, up to and
including February 26, 2011?

A Say it again.

Q Sure.

Anthony DiLeonardo would have no
personal knowledge from you that prior to
February 26, 2011, you were ever intoxicated
as a result of consuming alcohol?

A No.

Q Prior to February 26, 2011, did

1 Edward Bienz 47

2 you ever drink alcohol to the point of
3 intoxication?

4 MR. CLARKE: Over objection, you
5 can answer.

6 A I don't know.

7 Q So it's possible that then, as
8 of February 26th, 2011, you were never
9 intoxicated as a result of consuming
10 alcohol?

11 MR. MITCHELL: Objection to the
12 form.

13 MR. CLARKE: Object, as well.
14 You can answer.

15 A Repeat the question.

16 Q Sure.

17 Based upon your previous answer,
18 that as of February 26, 2011, you have never
19 been intoxicated as a result of drinking
20 alcohol?

21 MR. MITCHELL: Object to the
22 form.

23 A I'm sure at one point, I have
24 been.

25 Q So can you tell me approximately

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Edward Bienz

48

how many times you were intoxicated as a
result of consuming alcohol, prior to
February 26, 2011?

A No.

Q You think it would have been at
least once, right?

A Yes.

Q Could it have possibly been
twice?

A Yes.

Q Could it have possibly been
three times?

MR. CLARKE: Objection to the
form of the question.

A Yes.

Q Can you give me an estimate of
the number of times you may have drunk
alcohol to the point of being intoxicated?

MR. CLARKE: Objection.

MR. MITCHELL: Objection to
form.

A No.

Q Could it have been hundreds?

A No.

1 Edward Bienz 49

2 Q Could it have been a hundred?

3 A No.

4 Q Could it have been ten?

5 MR. CLARKE: Object to the form
6 of the question.

7 A Possibly.

8 Q Possibly ten?

9 A Possibly.

10 Q So, certainly not a hundred, but
11 you may concede you possibly got intoxicated
12 ten times, up to the February 26, 2011?

13 A Yes.

14 Q Now, I have the same question
15 for you about drinking alcohol to the point
16 impairment, okay?

17 I'm talking about impairment, in
18 a legal sense; as you know it, based upon
19 your training as a police officer.

20 MR. SCHROEDER: Objection.

21 MR. MITCHELL: I'm going to
22 object to the form.

23 If you don't mind, I appreciate
24 you asking the question regarding his
25 knowledge of the term.

1 Edward Bienz 50

2 I don't know what his knowledge
3 of the term is. I don't know what you
4 assume the term to mean.

5 If you ask, clarify what you
6 mean when you say this word,
7 impairment. Ask him what he believes,
8 because quite frankly, the statutory
9 definition I have of impairment is
10 extremely vague.

11 You know, he might have a
12 different definition than you have.

13 MR. GRANDINETTE: I disagree,
14 but I'll ask the question, out of
15 respect --

16 MR. CLARKE: It's evolved over
17 30 years of his lifetime, as well.

18 MR. GRANDINETTE: I'll ask the
19 question.

20 I don't want to get into a legal
21 debate with you about --

22 MR. CLARKE: It's a common law
23 definition.

24 MR. GRANDINETTE: I know what
25 the jury charge is.

1 Edward Bienz 51

2 MR. CLARKE: I'm not being
3 deposed, though.

4 MR. MITCHELL: I don't know what
5 his answers are going to be, if you
6 use a term that we haven't defined.

7 Q I'm going to get back to my
8 question.

9 Can you tell me your
10 understanding of the term impaired, as a
11 result of the consumption of alcohol?

12 MR. CLARKE: Over objection, you
13 can answer.

14 A Are we talking about the legal
15 definition, the Vehicle & Traffic Law.

16 Q Any definition.

17 A Blood alcohol content above .06.

18 Q What else?

19 A What else were you asking me?

20 Q Can you describe your
21 understanding of impairment?

22 MR. CLARKE: He just answered
23 the question.

24 MR. GRANDINETTE: Please. If
25 that's your objection, make it; but

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Edward Bienz

52

let me finish the question.

MR. CLARKE: You just asked it,
and he answered it.

Now you're asking it again.

MR. GRANDINETTE: That's not the
case.

MR. CLARKE: Clearly the case.
Go ahead and ask the question.

MR. GRANDINETTE: In five
minutes, I'm going to get up.

Or we can just try to get
through is this. Okay?

MR. CLARKE: Do whatever you
like.

Q Officer Bienz, outside of blood
alcohol content, could you tell me what your
understanding is point of an impairment as a
result of the consumption of alcohol?

MR. CLARKE: Over objection, you
can answer.

A I'm getting a little confused.

MR. CLARKE: He gave you -- he's
confused about the question, the way
you phrased it.

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Edward Bienz

53

He is not asking you questions, though; he is answering them. You told him, if he is confused, to tell you.

MR. GRANDINETTE: That's an objection. I get it.

I'm going to move on.

Q Officer Bienz, first of all, you've been to the academy, right?

A Yes.

Q You had training for DWI enforcement?

A Yes.

Q Have you ever made any DWI arrests?

A Yes.

Q Have you made arrests for impairment and intoxication?

MR. CLARKE: Objection, compound.

You can answer.

A I made arrests.

Q Based upon your training, and based upon the fact that you arrested

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Edward Bienz

54

people, you're familiar with what constitutes impairment of a motorist as a result of the voluntary ingestion of alcohol?

A Yes.

Q Could you tell us what your understanding of that is?

MR. CLARKE: Objection. It's shall asked and answered.

You can answer again.

A Red, glassy, watery, bloodshot eyes, impaired motor condition.

Q So to you, glassy eyes can be a physical reaction to drinking alcohol, right?

A Yes.

Q Impaired motor condition can be a physical consequence of drinking alcohol, right?

A Yes.

Q So you learned that when drinking, it can affect both the cognitive mental process and the physical coordination of an individual, correct?

1 Edward Bienz 55

2 A Yes.

3 Q Can you tell me, in your
4 lifetime, up to February 26, 2011, how many
5 times you've consumed alcohol to the point
6 of impairment?

7 MR. CLARKE: Objection.

8 Over objection, you can answer.

9 MR. MITCHELL: Again, using what
10 he's described as impairment
11 definition, including the fact that
12 it's from the VTL.

13 Am I right?

14 A I don't know.

15 Q This question relates to
16 drinking alcohol other than the times that
17 you said you may have been intoxicated,
18 right?

19 So you indicated it is maybe ten
20 times up to February 26, 2011.

21 How many times, if at all, have
22 you drunk alcohol to the point of
23 impairment, up to February II, 2011?

24 MR. CLARKE: It's been asked and
25 answered.

1 Edward Bienz 56

2 Over objection, you can answer
3 it again.

4 A I don't know.

5 Q Could is it have been at least
6 once?

7 A Yes.

8 Q Could to have been ten times?

9 MR. CLARKE: Objection.

10 A I don't know.

11 MR. CLARKE: You asked and
12 answered the question.

13 Q So as you sit here today, you
14 cannot articulate any estimate, whether or
15 not you've ever been impaired by the
16 consumption of alcohol?

17 MR. SCHROEDER: So I have --
18 just so I understand, an objection.

19 Are you distinguishing it from
20 intoxication?

21 MR. GRANDINETTE: Yes.

22 THE WITNESS: So because if
23 you're intoxicated, you're impaired.

24 MR. GRANDINETTE: I
25 distinguished it.

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Edward Bienz 57

Q Separate from the ten times that you were intoxicated, can you give me a number of times, if at all, that you may have drank to the point of impairment?

A I can't guess.
I don't drink to get impaired or intoxicated by the legal definition of .06 or .08.

I have a few beers, maybe watching a football game, or going out to dinner. I don't drink to the point of excess or to the point of getting sick or stumbling or falling down drink.

Q That's not my question.
MR. CLARKE: He answered your question.

A This is the best way I can answer, because I'm really not understanding if you're talking about blood alcohol content, at this point, or intoxication.

I'm not drinking to excess or to inebriation. If I'm at a social function, I may have a few beers.

The word impairment has a

Edward Bienz

58

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2 significant blood alcohol content attached
3 to it.

4 Alcohol takes -- you know, can
5 start affecting people after one drink. It
6 all depends on the person. I mean, there's
7 tons of studies which were done by NHTSA of
8 how much alcohol you have consumed, how it
9 impairs the person.

10 Q So given your knowledge of
11 alcohol and consumption, can you give me an
12 estimate, yes or no, of to the number of
13 times you've drunk alcohol to the point of
14 impairment?

15 A Impairment in the sense of the
16 legal definition, or impairment in the sense
17 that I consumed school to and, you know, I
18 had a beer?

19 Q Sir, to the point you have
20 impairment, as defined under the laws of --
21 as you know it to be, in this state?

22 A I don't know.

23 I don't test myself every time I
24 have a beer at dinner.

25 Q I'd like to discuss with you --

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Edward Bienz

59

you just explained, sometimes you have a beer at dinner or out to dinner, or you'll have a beer watching a football game.

I'd like you to describe for me the amount that you drank, or your drinking habits, for a year prior to the event.

MR. SCHROEDER: Objection to form.

Q How often did you drink?

MR. CLARKE: Objection.

You can answer.

A Prior to the event?

Q Yes. The year prior, how often would you drink?

A Approximately once a week, maybe once every two weeks, depending on my schedule.

Q When you drank, would you drink at home, when you went out? What was the situation?

A If I went to dinner with my wife, social functions.

Q Did you have did a drink of preference?

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Edward Bienz

60

A Beer.

Q Did you ever drink anything
other than beer?

A Have I ever?

Q Yes?

A Yes.

Q How about during the year prior
to this event?

A No.

Q Okay. You're a beer guy.

Did you have a preference of
beer; Heineken over Bud?

A No.

Q When you drank, and you
described your drinking once a week,
socially, could you explain to me what you
mean by social drinking?

A Went out to dinner with my wife,
went to watch football games with my
buddies, family function, something of that
nature.

Q When you went out to drink with
your wife --

MR. CLARKE: Objection.

1 Edward Bienz 61

2 Q -- to dinner, and you drank, how
3 much would you drink, generally, when you
4 describe social drinking?

5 MR. CLARKE: Objection to the
6 form.

7 You can answer.

8 A It depends on the situation.
9 Could be two to three drinks, it could be
10 four to five.

11 Q So when would it be two drinks?

12 A If we went to dinner.

13 Q So if you would go out to dinner
14 with your wife, it would be a normal
15 practice for you to have two or three beers?

16 A Yes.

17 Q How many times would you say you
18 went out to dinner with your wife, a year
19 prior to this event, had two or three beers?

20 A I don't know.

21 Q Approximately?

22 MR. CLARKE: Objection.

23 You can answer.

24 A Numerous.

25 Q Numerous, is that once a week?

1 Edward Bienz 62

2 MR. CLARKE: Objection.

3 You can answer.

4 A 2011, probably once a week, we
5 would go out.

6 Q So you went out maybe 52 times
7 to dinner a year prior to this event, give
8 or take, and you had two or three beers on
9 each occasion?

10 A Yes.

11 Q Did you ever have more than two
12 or three beers when you went out to dinner?

13 A Yes.

14 Q When you went out to dinner, did
15 you ever have five or six beers over the
16 course of the night?

17 MR. CLARKE: Objection.

18 You can answer.

19 A I could have.

20 Q When you did that, when you went
21 out to dinner with your wife, did you always
22 drive?

23 A Maybe.

24 Q Did you drive sometimes?

25 A Yes.

1 Edward Bienz 63

2 Q Did you drive even though you
3 drank?

4 MR. CLARKE: Objection.

5 You can answer.

6 A Yes.

7 Q When you went out to dinner with
8 your wife over that time frame, did your
9 wife drink?

10 A Yes.

11 Q Did you and your wife have
12 anything set up with respect to a designated
13 driver, when you went out to dinner and you
14 drank, or did you both just drink and drove
15 anyway?

16 MR. CLARKE: Objection to the
17 form of the question.

18 A Can you repeat?

19 Q When you went out to dinner with
20 your wife, you said there were times you
21 went out, you drank, there were times that
22 she drank, right?

23 A Yes.

24 Q Did you have a system in place
25 for a designated driver between you and your

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Edward Bienz

64

wife?

A No.

Q When you drank socially with
your buddies, like watching a football game,
right --

A Yes.

Q -- did you drink differently
socially, in that setting?

MR. SCHROEDER: Objection to
form.

A Yes.

Q In what way did you drink
differently?

A I don't know. Just different.
You order pitchers versus bottles.

Q Did you have a favorite place or
places that you would go with your buddies?

A No.

Q When you're referring to
pitchers, I'm assuming that you're at a
restaurant or where they serve beer by the
pitcher?

A Yes.

Q Such as, for example, Buffalo

1 Edward Bienz 65

2 Wild Wings, or a place like that?

3 A Some establishment like that,
4 yes.

5 Q Was that part of your routine, a
6 year prior to this event, that you would
7 meet friends and watch football and drink?

8 A Occasionally, yes.

9 Q What's occasional?

10 A Two to three times a season.

11 Q Did you like a particular team?

12 A Giants.

13 Q How many guys would you meet
14 with?

15 A One or two.

16 Q What are their names?

17 A Chris and Joe.

18 Q Chris who?

19 A Bienz.

20 Q Okay. Your cousin, I believe?

21 A Yes.

22 Q And Joe?

23 A Tringali.

24 Q Could you spell the last name?

25 A T-R-I-N-G-A-L-I.

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Edward Bienz

66

Q Where is Joe from?

A Smithtown, New York.

Q And Chris?

A Kings Park.

Q Would you generally consume more beer when you were hanging out with your buddies as opposed to having dinner with your wife?

A No.

Q You said it was a little different socially. So that was that you would order a pitcher or pitchers, as opposed to a bottle of beer?

A Yes. It's different.

Q You ever go out with them to watch a game and get drunk?

MR. CLARKE: Objection to the form of the question.

You can answer.

A Drunk, like --

Q Drunk, like intoxicated?

A No.

Q One of the 10 times that you got drunk, that you described earlier, up until

1 Edward Bienz 67

2 February 26th, 2011, did any one of those
3 ten times occur in the presence of Chris
4 Bienz or Joe Tringali?

5 MR. CLARKE: Objection to the
6 form of the question.

7 The number of ten was a
8 speculated number based upon a
9 question where you asked him to guess.

10 You can answer.

11 A No.

12 Q So would it be fair to say,
13 then, that Chris Bienz has never seen you
14 intoxicated?

15 A No.

16 Q No, meaning no, he has never
17 seen you intoxicated?

18 A No. He may have seen me.

19 Q Well, where would he have seen
20 you intoxicated?

21 A We're related. At weddings,
22 things of that nature.

23 Q Would that be one of the ten
24 times that you referred to earlier,
25 approximately ten times?

1 Edward Bienz 68

2 MR. CLARKE: Object to the form
3 of the question.

4 A Yes.

5 Q How many times has Chris seen
6 you intoxicated?

7 A I don't know.

8 Q Can give me an estimate?

9 A No.

10 MR. CLARKE: Objection.

11 Q Ten?

12 A No.

13 Q Five?

14 A I don't know.

15 Q How about Joe Tringali? Has
16 ever seen you intoxicated?

17 A No.

18 Q Now, getting back to your making
19 arrests; have you ever made a DWI arrest
20 with Anthony DiLeonardo?

21 A Yes.

22 Q Approximately how many arrests
23 have you made with Anthony DiLeonardo for
24 DWIs?

25 A I don't know.

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Edward Bienz

69

Q At least once?

A Yes.

Q Do you know the name of the party that you had arrested?

A No.

Q Can you tell me anything about the case at all?

A No.

Q Other than it happened in Nassau County, in the Third Precinct?

A No.

Q Can you individually, from the time that you started on the force up until to today's date, tell me how many arrests have you made for DWI or DWAI?

A How many?

Q Yes?

A I don't know.

Q Can you give me an estimate?

A No.

Q Has it been more than one?

A Yes.

Q Has it been more than two?

A It's been a few.

1 Edward Bienz 70

2 I don't keep stats. I'm not a
3 stat guy. I told you before, I'm not a
4 baseball player.

5 Q I understand that you're not a
6 baseball player.

7 And I'm asking you, if you
8 could -- how many years have you been on the
9 force with the Nassau County PD?

10 A Total of nine.

11 Q During those nine years, have
12 you made at least one DWI arrest a year?

13 A Yes.

14 Q So then we know that you've made
15 at least nine DWI arrests, right?

16 A I made more than nine.

17 Q So let's talk about that.

18 In a given year, since you
19 started, have you made more than two arrests
20 a year?

21 MR. CLARKE: Objection to the
22 form.

23 A More than two arrests?

24 Q Right. Since you started, to
25 today's date, right, you said you made at

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Edward Bienz

71

least one DWI arrest a year, correct?

A Yes.

Q All right. In those same nine years, have you ever made two?

A Yes.

Q Okay.

Have you ever made three?

A Yes.

Q Have you ever made four?

A Yes.

Q Have you made at least four in each of the nine years?

A Arrests for DWI?

Q DWI or DWAI?

A In every year, no.

Q So, based upon -- what's the highest number of DWI arrests that you've made in any calendar year?

MR. CLARKE: Objection. Calls for speculation.

A I don't know.

I know that I haven't made one in a long time.

Q During those nine years, have

1 Edward Bienz 72

2 you ever made more than five in one calendar
3 year?

4 A Yes.

5 Q So, how many DWIs -- to the best
6 of your ability, can you give me an
7 estimated -- did you make, prior to
8 February 26, 2011?

9 A Me, as the arresting officer?

10 Q Arresting or assisting. How
11 many have you been involved with?

12 A Numerous.

13 Q Can you give me an approximate
14 number?

15 A Arresting or assisting?

16 Q Right?

17 MR. CLARKE: Note my objection.
18 It's been asked and answered multiple
19 times.

20 THE WITNESS: Are we talking
21 about as the arresting and the
22 assisting?

23 Q Arresting or assisting, how many
24 DWIs have you been involved in?

25 A More than a hundred.

1 Edward Bienz 73

2 MR. SCHROEDER: Did you change
3 it? Have you been involved in, or
4 prior to 2/27/11 are the first?

5 MR. GRANDINETTE: 2/27/11.

6 MR. SCHROEDER: Prior to 2/27, I
7 don't know if that changes his answer.

8 THE WITNESS: No, it doesn't
9 change the answer.

10 Q A hundred DWIs as either the
11 arresting or assisting officer prior to
12 February 26, 2011.

13 Of those hundred DWIs, you don't
14 remember the name of one defendant?

15 A I remember the names of
16 defendants.

17 I thought you asked me if I
18 remembered the name of a defendant -- a
19 specific defendant that I was involved with
20 in an arrest with Anthony DiLeonardo.

21 Q I did ask you that question.

22 A Yes.

23 Q Now I'm going to ask you, can
24 you give me the name or names of some of the
25 defendants that you've arrested?

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Edward Bienz 74

Let me ask you this. Have you gone to trial on -- of the hundred arrests for DWI that you have, have any of those gone to trial?

MR. CLARKE: I'm going to object.

Are you withdrawing the prior question?

MR. GRANDINETTE: Yes.

MR. SCHROEDER: Would you state the question that you're asking, because you've got three different questions that you're shifting between.

MR. GRANDINETTE: My pleasure.

Q Of the hundred DWIs that you've been involved with prior to February 26th, 2011, have any of them gone to trial?

A Yes.

Q How many?

A Approximately four.

Q What were the names of those four cases?

A James Farr.

1 Edward Bienz 75

2 Q Can you spell that?

3 A F-A-R-R.

4 Q Did you testify at Mr. Farr's
5 trial?

6 A Yes.

7 Q Was he convicted?

8 A Yes.

9 Q Were you the arresting or the
10 assisting?

11 A Arresting.

12 Q Where did that trial take place?

13 A County Court, Mineola.

14 Q In front of what Judge?

15 A I don't know.

16 Q Who was the DA?

17 A Brendon Ahern.

18 Q Did you testify at a hearing as
19 well?

20 A Yes.

21 Q Was he convicted?

22 A Yes.

23 Q Next, of the four trials that
24 you had, do you know the approximate time
25 frame that Mr. Farr was arrested?

1 Edward Bienz 76

2 Prior to February 26, 2011, do
3 you have any idea when you made this arrest?

4 A Previous.

5 Q Where? Approximately what time?
6 Was it 2010, 2011, 2009?

7 A It was the summer.

8 Q Summer of 2010?

9 A Yes.

10 Q Who else did you arrest for DWI
11 that went to trial?

12 A Owe Salvatore Pena. I don't
13 know how to spell the last name.

14 Q Can you spell that last name?

15 A No.

16 P-E-N-A. I could be wrong.

17 MR. MITCHELL: You're right.

18 MR. GRANDINETTE: By counsel.

19 Q Where was that case tried?

20 A County Court, Mineola.

21 Q Who was the judge?

22 A I don't know.

23 Q Male, female?

24 A I don't know.

25 Q Did you testify?

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Edward Bienz

77

A Yes.

Q Hearing and trial?

A Yes.

Q Who was the DA?

A Don't know.

Q Do you know what year that
happened?

A No.

Q Was the person convicted?

A Yes.

Q With Mr. Farr, and Mr. Pena,
when you testified, did you testify as to
your observations of those individuals?

A Yes.

Q Their admissions to you?

A Yes.

Q Your observations, watching them
drive?

A One case, yes.

Other case, no.

Q Which one did you observe him
drive?

A Pena.

Q The other case, did you come to

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Edward Bienz

78

the scene after an accident, or something of that nature?

A Auto accident.

Q So, you arrived at the scene with respect to Farr, without personally observing the motorist operate the motor vehicle, correct?

A Yes.

Q Part of the DWI is that you have to ascertain who the driver was?

A Yes.

Q Were you able to do that by questioning Mr. Farr as to who was operating the motor vehicle?

A Yes.

Q And he made admissions to you which created the necessary element to prove operation, right?

A Yes.

Q In DWI enforcement, you certainly don't have to witness somebody driving the car to arrest them, right?

A No.

Q When you testified in the Farr

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Edward Bienz

79

case, in the Pena case, did you render an
opinion under oath as to whether or not they
were intoxicated or impaired by the
consumption of alcohol?

MR. MITCHELL: Objection.

MR. CLARKE: Objection.

A Yes.

Q Who was the third of the four?

A Steven Amarrosa.

Q Could you spell it?

A A-M-A-R-R-O-S-A.

Q What court was that?

A District Court.

Q What judge?

A Don't know.

Q Do you know the name of the DA?

A No.

Q Did you testify?

A Yes.

Q At hearings and trial?

A I believe so.

Q Was there a conviction?

A Yes.

Q Do you know what year that

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Edward Bienz

80

happened?

A No.

Q Do you know the name of the
defense attorneys in these three cases?

A Farr was Christopolis.

Q Greg Christopolis?

A Yes.

Q Who was the fourth case that you
recall?

A You know what, I'm thinking only
three. I can't think of a fourth case.

Q Now, when you arrest somebody
for DWI, you make a collar, you process
paperwork that goes into the computer
system, right?

A Yes.

Q You process somebody, you fill
out your paperwork, it goes into the
computer system, right?

A Yes.

Q So is there a way that you can
access the arrest that you've made in the
Nassau County computer system?

A Yes.

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Edward Bienz

81

Q So if I make a demand with the Nassau County Police Department, there's a method in which they can pull up all your arrests, prior and after February 26th, 2011?

A Yes.

MR. CLARKE: Objection.

Q To get back to Anthony DiLeonardo, you said you made one joint arrest with him for DWI?

A At least one.

Q At least one. Okay.
So it might have been two?

A Yes.

Q Could it have been three?

MR. CLARKE: Objection.

You can answer.

A It could have.

Q Could it have been four?

MR. CLARKE: Objection.

A Could have.

Q Could it have you been more than four?

MR. CLARKE: Objection.

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Edward Bienz

82

A Could have.

Q Could it have been more than 20?

MR. CLARKE: Objection.

A Probably not.

Q Those DWI arrests with
Mr. DiLeonardo between that eight, six-month
period, do you recall the name of any
defendant?

A No.

Q Of those cases, or those
arrests, did any of them proceed to hearing
or trial?

A I don't believe.

Q During those arrests, can you
give me an idea how many you were the lead,
as opposed to the assisting officer, or vice
versa?

A No.

Q As a result of your working with
Anthony for those eight months, other than a
professional relationship and the
relationship you developed working together,
did you ever socialize outside of work?

A Other than departmental --

1 Edward Bienz 83

2 Q Right?

3 A -- events, or work functions?

4 Q Right?

5 A No.

6 Q Was February 26, 2011, the first
7 time that you ever socialized with Anthony
8 DiLeonardo outside the workforce?

9 A Yes.

10 MR. CLARKE: Before you ask your
11 next question, it's been an hour and
12 ten minutes, how about, can we take a
13 short break?

14 MR. GRANDINETTE: Sure.

15 (Break taken)

16 Q Sir, very briefly, could you
17 tell me how long you knew Jillian prior to
18 your marriage?

19 A Since I was 16 years old.

20 Q Were you high school
21 sweethearts?

22 A Yes.

23 Q What year did you get married?

24 A 2010.

25 Q She went to Kings Park High

Edward Bienz

84

School as well?

A Yes.

Q Junior high school?

She familiar with the area as well?

A Yes.

Q Those times you socialized down to Huntington Village, did she come with you?

A She could have.

Q Was she familiar with the Walt Whitman Mall, to your knowledge?

A I don't know.

Q She every go to the mall shopping?

More of a Smith Haven girl?

A Yes.

Q Now, on February 26th, 2011, was your wife working?

Not that day. I'm talking in that time frame. I'm not saying, was she -- did she go to work on February 27th, 2011.

Was she employed in February 2011?

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Edward Bienz

85

A Yes.

Q What did she do for a living?

A She was a student, and she might have waitressed at the Outback Steak House.

Q Where was she going to school?

A February of 2010, would have been St. Joseph's, I believe.

Q What was her course of study?
Education.

Q Did she complete a degree?

A Yes.

Q Do you know when?

A No.

Q Where she went to school, at St. Joseph's, for her education degree, you're saying that she worked part time --

A Yes.

Q -- as a waitress?

A Yes.

Q Did she do that through the course of her studies?

A Yes.

Q Did she start at St. Joseph's and graduate St. Joseph's, or did she go to

1 Edward Bienz 86

2 different schools?

3 A She started at Suffolk.

4 Q After February 27, 2011, did
5 your wife become employed on a full-time
6 basis?

7 A No.

8 Q Is she a homemaker now?

9 A She's an student, a mom, and she
10 works part time for Commack schools.

11 Q Would it fair to say that on
12 February 27, 2011, that you were the primary
13 breadwinner of your household?

14 A Yes.

15 Q You're family was dependent upon
16 your salary?

17 A Yes.

18 Q In an economic perspective, if
19 anything happened to your employment with
20 the Nassau County Police Department, that
21 would have a significant financial impact on
22 you and your family?

23 A Yes.

24 Q And you were aware of that on
25 February 27, 2011, correct?

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Edward Bienz

87

A Yes.

Q Now, just briefly, from the date of this incident to today's date, have you spoken to your wife about the events of February 26th into February 27th?

A Yes.

Q Approximately how many times?

A I don't know.

Q I'm sorry?

A I don't know.

Q Can you give me an estimate?

A Guessing, 20.

Q So, in that 20 times, that was between -- February 27th, 2011, up to and including today's date?

A Yes.

Q So for example, you may have had a conversation with her, you know, regarding your up coming deposition, right?

A Yes.

MR. CLARKE: Scheduling matter?

A Yes.

Q Right?

A Wouldn't be surprised.

1 Edward Bienz 88

2 Q Don't tell me anything you said
3 between you and your wife, by the way,
4 alone.

5 I'm just trying to figure out,
6 you spoke about 20 times --

7 A Are you talking about the actual
8 event, or something subsequent to the event
9 that I would have to do? Because, you know.
10 I've had to come here. Obviously, she knows
11 I'm at a deposition.

12 Q I mean a conversation about what
13 happened that day, right that night.

14 How many times have you spoken
15 to her about that?

16 MR. CLARKE: Over objection, you
17 can answer.

18 A Approximately 10 to 15, maybe.

19 Q During those 10 to 15 times, did
20 you ever have a discussion with your wife
21 about these events in the presence of a
22 third party?

23 A No.

24 Q Obviously, it goes without
25 saying, on February 27th, 2011, you very

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Edward Bienz

89

much loved and were concerned about your
wife, and vice versa, correct?

A Yes.

Q Did you know Sophie Cornea
prior to February 26th, 2011?

A No.

Q Just one more about your
communications with your wife.

Did you ever have any
communications with your wife about the
events of the case in the presence, for
example, of Willard Miller, the PBA
attorney?

A Say that again.

Q Did you ever have conversations
with your wife about the case in the
presence, for example, of Mr. Miller, the
PBA attorney?

MR. CLARKE: Over objection, you
can answer.

A I don't know.

Q How about any of the PBA reps?

A No.

Q How about Anthony DiLeonardo?

1 Edward Bienz 90

2 A No.

3 Q How about -- do you know who
4 Michael Ferguson is?

5 A Yes.

6 Q Did you and your wife and
7 Mr. Ferguson ever discuss the case in the
8 presence of each other?

9 A Three of us?

10 No.

11 Q How about you, your wife and
12 Mr. Clarke?

13 A No.

14 Q Now, you never met Sophie
15 Cornea.

16 Did you know anything about her?

17 A No.

18 Q Did Anthony DiLeonardo speak to
19 you at all about her?

20 A I don't know.

21 Q Did you know that he was dating
22 her for any period of time prior to
23 February 26th?

24 A I don't know how long they were
25 dating.

1 Edward Bienz 91

2 Q Did you know when you went out
3 that they were boyfriend and girlfriend,
4 that they were an item?

5 MR. CLARKE: Objection.

6 A I knew that he was dating a
7 girl.

8 Q You didn't know who she was?

9 A No.

10 Q Did he ever share with you, I'm
11 infatuated with this girl, I love her, she's
12 intelligent, any personal information about
13 Sophie Cornea at all?

14 A No.

15 Q That would include any personal
16 information about Sophie Cornea having
17 issues about drinking alcohol excessively?

18 A I knew nothing about her.

19 Q Now, I'd like to go over, sir,
20 your education, your employment background.

21 But first, let's do your
22 education background, starting with high
23 school.

24 You graduated Kings Park when?

25 A 2003.

1		Edward Bienz	92
2	Q	What did you do after that?	
3	A	Farmingdale State College.	
4	Q	SUNY Farmingdale.	
5		When to when?	
6	A	2003 to 2006.	
7	Q	Did you get an associates in	
8		'06?	
9	A	Bachelor of science.	
10	Q	What was your major?	
11	A	Management technology.	
12	Q	Management?	
13	A	Technology.	
14	Q	Ever been disciplined or put on	
15		academic probation while at SUNY	
16		Farmingdale?	
17	A	No.	
18	Q	Your BS, was that a four-year	
19		degree?	
20	A	Yes.	
21	Q	After you graduated, did you	
22		work while you went to school?	
23	A	Yes.	
24	Q	Odd jobs, here and there?	
25	A	Made pizza.	

1 Edward Bienz 93

2 Q Okay.

3 Where was that?

4 A *Chino's Pizza.

5 Q Where was that?

6 A Kings Park.

7 Q In 2006, after you graduated
8 with your BA, what did you do?

9 A I graduated in December, and I
10 was hired by the Nassau County Police
11 Department in January of '07.

12 Q So you had taken the test, you
13 knew that you were going to start the
14 position with the Nassau County Police
15 Department upon your graduation?

16 A No.

17 I was waiting for them to tell
18 me when to start.

19 Q When you graduated, in May
20 of 2006, did you look for a job in your
21 field in which you had a degree, or at that
22 time, did you already know that you were
23 going to start with the Nassau County Police
24 Department?

25 A I was awaiting to get hired by

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Edward Bienz

94

the Nassau County Police Department.

Q When did you started the academy?

A January 2007.

Q First full-time position?

A Yes.

Q Did you start by entering the Nassau County Police Academy?

A Yes.

Q Do you know what date you entered?

A January 3rd.

Q Do you know how long was?

A Six months.

Q So in June of 2007, you completed the program?

A Technically, July.

Q As part of the training, were you familiar with the rules and regs of the Nassau County Police Department?

A Yes.

Q Did that include the use of deadly physical force?

A Yes.

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Edward Bienz

95

Q Do the rules and regs of the Nassau County Police Department prohibit the discharge of a firearm into a moving vehicle, absent the exception of the defense of yourself or a third party --

MR. SCHROEDER: Objection.

MR. CLARKE: Over objection, you can answer.

Q -- from serious physical injury?

A Restate the question.

Q Sure.

Did the rules and regulations of the Nassau County Police Department to be that an officer was prohibited from the firing of a weapon into a moving vehicle, absent the defense of himself or a third party from serious physical injury or death?

MR. CLARKE: Over objection, you can answer.

Are you talking about now?

Q Talking about in July of 2007, when you graduated.

A Restate the question.

Q I'm sorry.

1 Edward Bienz 96

2 In July of 2007, did the Nassau
3 County rules and regulations prohibit the
4 discharge of a firearm into a moving
5 vehicle, with the exception of the defense
6 of yourself or a third party from serious
7 physical injury or death?

8 MR. CLARKE: Objection.

9 MR. SCHROEDER: Objection to
10 form.

11 A Yes.

12 Q Were those rules and regulations
13 in force on February 27, 2011?

14 A Yes.

15 MR. CLARKE: Over objection, you
16 can answer.

17 Q Now, would it be fair to say,
18 then, that the rules and regulations of the
19 Nassau County PD certainly would it prohibit
20 discharging a firearm into a moving vehicle
21 of a retreating suspect who may have
22 committed a prior offense?

23 MR. CLARKE: Objection.

24 You can answer.

25 A Yes.

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Edward Bienz

97

MR. SCHROEDER: Objection.

Q You were aware of that, on
February 27th, 2011?

A Yes.

Q Did the rules and regulations of
the Nassau County Police Department prohibit
a police officer who was intoxicated by the
consumption of alcohol while performing your
duties as a police officer?

A Yes.

Q Did the rules and regulations of
the Nassau County Police Department prohibit
the unlawful behavior by an officer, whether
on duty or off duty?

A Yes.

Q You were aware of those rules
and regulations on February 27th, 2011?

A Yes.

Q Did the rules and regulations of
the Nassau County Police Department require
that you act in a lawful manner at all
times?

A Yes.

Q Did they require that you act in

Edward Bienz

98

a responsible manner at all times?

A Yes.

Q That would be both on and off duty?

A Correct. Yes.

(Whereupon, Plaintiff's Exhibit 121 for identification was so marked.)

Q Now I'm going to show you what has been marked as Plaintiff's 121, which are the departmental rules for the standard of conduct under Article 5.

MR. CLARKE: Seven-page document.

Have you had a chance to look at Article 5?

THE WITNESS: I glossed it over.

Q Sir, that took effect on 8/7/2009.

Were you familiar with those standards of conduct on February 27th, 2011?

A Yes.

Q Did you have a duty to report your observation of brethren officer in violation of those rules and regulations?

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Edward Bienz

99

A Yes.

Q If you observed one of your brethren officers violating the rules and regulations, would you have so reported?

A Yes.

Q Did you, sir, have a duty to self-report, if you, yourself, had violated the rules and regulations of the standards of conduct?

A Yes.

Q As part of your training at the academy, was there a specific block of time set aside for DWI training and enforcement?

A Yes.

Q Would you say, given the number of arrests you made in a DWI area since your assignment to the Third Precinct, that DWI enforcement was given a priority in the Nassau County Police Department?

MR. CLARKE: Objection.

You can answer.

A Is DWI a priority of the Police Department?

Q Right. Is DWI enforcement

1 Edward Bienz 100

2 within the Third Precinct something of a
3 priority, with respect to enforcement of
4 criminal behavior?

5 MR. CLARKE: Over my objection,
6 you can answer.

7 A No.

8 Q How long were you involved with
9 DWI training at the academy, approximately?

10 A Approximately one week, about.

11 Q Did that include the study of
12 written materials?

13 A Yes.

14 Q Field training?

15 A Yes.

16 Q Controlled drinking experiments?

17 A Yes.

18 Q Did you learn and practice the
19 administration of standard field sobriety
20 tests?

21 A Yes.

22 Q Did you learn how to operate and
23 utilize a portable breath unit, PBT test?

24 A No.

25 Q Did you subsequently learn how

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Edward Bienz

101

to use a PBT unit?

A Yes.

Q Are PBT units, are they in every RMP within the Third Precinct, since the time that you --

A No.

Q We'll get into that later. These controlled drinking experiments, did you participate in watching people consume alcohol, and the physical and mental effects it had on them?

A Yes.

Q Could you tell me what those training sessions were designed to teach you?

MR. CLARKE: Objection to the form.

You can answer, if you know.

A To distinguish the difference between intoxicated and not.

Q How about impairment?

A No.

Q How about impairment?

A Nothing.